

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

TODD COPENHAVER and AMBER
COPENHAVER,

Plaintiffs,

vs.

CAVAGNA GROUP S.p.A OMECA
DIVISION, AMERIGAS PROPANE,
L.P., ALBERTSONS COMPANIES,
INC., and DOES 1-10,

Defendants.

CV 19-71-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on several motions for summary judgment. (Doc. 232). Defendant Cavagna Group S.p.A Omeca Division ("Cavagna") moves for summary judgment on Copenhavers' claims. (Doc. 134). Defendants AmeriGas Propane, L.P. ("AmeriGas") and Albertsons Companies, Inc. ("Albertsons") move for partial summary judgment on punitive damages. (Doc. 136). Last, the Copenhavers present three motions for partial summary judgment: (1) as to affirmative defenses other than misuse and assumption of risk (Doc. 140), (2) as to misuse and assumption of risk (Doc. 142), and (3) as to liability (Doc. 144). The Magistrate recommended that Cavagna's motion be denied; AmeriGas and Albertsons motion

as to punitive damages be denied as to AmeriGas and granted as to Albertsons; Copenhavers' motion as to affirmative defenses other than misuse or assumption of the risk be granted; Copenhavers' motion as to misuse and assumption of the risk be granted; and Copenhavers' motion as to liability be denied. (Doc. 232 at 2).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

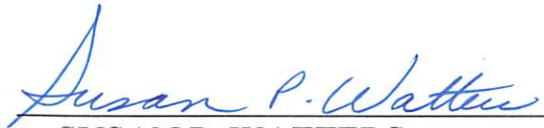
IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 232) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that:

1. Cavagna's motion for summary judgment (Doc. 134) is DENIED;
2. AmeriGas and Albertsons' motion for partial summary judgment as to punitive damages (Doc. 136) is GRANTED as to Albertsons and DENIED as to AmeriGas;

3. Copenhavers' motion for partial summary judgment as to affirmative defenses other than misuse and assumption of the risk (Doc. 140) is GRANTED;
4. Copenhavers' motion for partial summary judgment as to affirmative defenses of misuse and assumption of the risk (Doc. 142) is GRANTED; and
5. Copenhavers' motion for partial summary judgment as to liability (Doc. 144) is DENIED.

DATED this 13th day of August, 2021.



SUSAN P. WATTERS
United States District Judge